

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ANTONIO SCOGGINS, §
Plaintiff, §
§
v. § Civil Case No.: _____
§
CITY OF HOUSTON, TEXAS, AND §
INDIVIDUALLY, ANGEL ARRIAGA, §
MICHAEL J. STUBBS, ANDREW §
MALDONADO, CHRISTINA LAFOUR, §
ROBERT ESTRADA, JOHN §
MONTGOMERY, CHARLES §
LANDRUMILL, SYLVESTER TURNER, §
AND ART ACEVEDO, §
Defendants. §

NOTICE OF REMOVAL

TO THE HONORABLE UNITES STATES DISTRICT COURT JUDGE:

Defendants CITY OF HOUSTON, SYLVESTER TURNER, ART ACEVEDO, MICHAEL J. STUBBS, ANDREW MALDONADO, CHRISTINA LAFOUR, ANGEL ARRIAGA and CHARLES LANDRUM (improperly named as Charles Landrumill) (collectively “Defendants” or by individual name) files this its Notice of Removal. In support of said notice, Defendants would respectfully show the Court as follows:

I. STATE COURT ACTION

1. On or about March 28, 2018, a civil action was commenced in the 333rd Judicial District Court of Harris County, Texas, by the filing of an Original Petition bearing the caption, ANTONIO SCOGGINS, Plaintiff, v. CITY OF HOUSTON, TEXAS, AND INDIVIDUALLY, ANGEL ARRIAGA, MICHAEL J. STUBBS, ANDREW MALDONADO, CHRISTINA LAFOUR, ROBERT ESTRADA, JOHN MONTGOMERY, CHARLES LANDRUMILL, SYLVESTER

TURNER AND ART ACEVEDO, Defendants, Cause No. 2018-21157 (“State Court Action”).

On or about March 30, 2018, Plaintiff filed his First Amended Complaint in the State Court Action.

See a copy of Plaintiff’s First Amended Complaint attached and marked as Exhibit “A.”

2. In the State Court Action, Plaintiff is seeking damages for alleged violations constitutional and civil rights under the U.S. Constitution as well as 42 U.S.C. §1983 by the named Defendants when he was arrested on or about March 30, 2016, in the City of Houston, Harris County, Texas. Plaintiffs seek damages via 42 U.S.C. §1983. Plaintiffs also seek damages for alleged violations of Decedent’s rights under Texas statutory law, including assault and battery as well as intentional infliction of emotional distress.

3. On or about April 11, 2018, City of Houston, Turner, Landrum and Maldonado received copies of the Plaintiff’s First Amended Complaint and citation. On or about April 12, 2018, Arriaga, Montgomery and Acevedo received copies of the Plaintiff’s First Amended complaint and citation. On or about April 13, 2018, LaFour and Stubbs received copies of the Plaintiff’s First Amended complaint and citation.

4. This Notice of Removal is filed within thirty (30) days of receipt of the petition by Turner, Landrum and Maldonado. This Notice of Removal is timely filed under 28 U.S.C. §1446(b). Arriaga, Montgomery, Acevedo, LaFour and Stubbs consent to the removal.

II. GROUNDS FOR REMOVAL

5. The district courts of the United States have original jurisdiction over this action based on the federal question presented in Plaintiff’s petitions – namely the alleged violations of his constitutional and civil rights under the Fourth Amendment, Fourteenth Amendment as well as under 42 U.S.C. §1983. *See Exhibit “A.”* Original jurisdiction over such matters is conferred upon federal district courts by 28 U.S.C. §1331, which states that “the district courts shall have

Notice of Removal-Scoggins

original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. §1331; *see also* 28 U.S.C. §§1441(a) and (b). Therefore, removal of this action is proper.

III. TIMING AND STATE COURT PROCEEDINGS

6. On or about April 11, 2018, City of Houston, Turner, Landrum and Maldonado received the first amended petition in the State Court Action. On or about April 12, 2018, Arriaga, Montgomery and Acevedo received the first amended petition in the State Court Action. On or about April 13, 2018, LaFour and Stubbs received the first amended petition in the State Court Action.

7. This Notice of Removal is filed within thirty (30) days of receipt of the petition by Turner, Landrum and Maldonado. This Notice of Removal is timely filed under 28 U.S.C. §1446(b). Arriaga, Montgomery, Acevedo, LaFour and Stubbs consent to the removal.

8. The State Court Action is pending within the district and division. *See* 28 U.S.C. §1441(a).

9. Defendants have not answered the State Court Action. Thus, the deadlines and requirements established by Federal Rule of Civil Procedure 81(c) have been triggered.

10. No hearings have been scheduled in the State Court Action as of the date of this notice.

11. Simultaneously with the filing of this Joint Notice of Removal, notice will be given to the Plaintiff’s counsel and copies of this Notice of Removal will be filed with the clerk of the District of Harris County, Texas in the State Court Action numbered 2018-21157. *See* 28 U.S.C. §1446(b).

12. Pursuant to Local Rule LR-81, Local Rules for the Southern District of Texas, attached are the following:

Notice of Removal-Scoggins

- (a) Exhibit "A" – Plaintiff's First Amended Petition.
- (b) Exhibit "B" – copies of notices of receipt of service of process as of the date of this notice.
- (c) Exhibit "C" – copy of the current docket sheet in the State Court Action.
- (d) Exhibit "D" – index of matters being filed.
- (e) Exhibit "E" – list of all counsel of record.

WHEREFORE, PREMISES CONSIDERED, Defendants CITY OF HOUSTON, SYLVESTER TURNER, ART ACEVEDO, MICHAEL J. STUBBS, ANDREW MALDONADO, CHRISTINA LAFOUR, ANGEL ARRIAGA and CHARLES LANDRUM, pursuant to these statutes and in conformance with the requirements of 28 U.S.C. §1446, remove this action for trial from the 333rd Judicial District Court of Harris County, Texas (cause #2018-21157) to the United States District Court for the Southern District of Texas, Houston Division, on this the 26th day of April 2018.

Respectfully submitted,

RONALD C. LEWIS
City Attorney

DONALD J. FLEMING
Section Chief, Labor, Employment, & Civil Rights

Date: April 26, 2018

By: /s/ Jennifer F. Callan
JENNIFER F. CALLAN
Senior Assistant City Attorney
ATTORNEY IN CHARGE
SBN: 00793715
FBN: 22721
Jennifer.Callan@houstontx.gov
Tel: (832) 393-6286 (direct line)

DEIDRA NORRIS SULLIVAN
Senior Assistant City Attorney
SBN: 24080648
FBN: 13338580
Deidra.Sullivan@houstontx.gov
Tel: (832) 393-6299 (direct line)

CITY OF HOUSTON LEGAL DEPARTMENT
P.O. BOX 368
Houston, Texas 77001-0368
Tel: (832) 393-6491
Fax: (832) 393-6259

ATTORNEYS FOR DEFENDANTS CITY OF
HOUSTON, SYLVESTER TURNER, ART
ACEVEDO, MICHAEL J. STUBBS, ANDREW
MALDONADO, CHRISTINA LAFOUR, ANGEL
ARRIAGA and CHARLES LANDRUM

CERTIFICATE OF SERVICE

I certify that the above and foregoing Joint Notice of Removal electronically filed with the Clerk of the court using the CM/ECF system when will send notification to the following attorney(s) of record:

Andre D. Evans
Andre Evans & Associates, PLLC
3003 South Loop West, Suite 108
Houston, Texas 77054
andre@attorneyandreevans.com

/s/Jennifer F. Callan
Jennifer F. Callan

EXHIBIT “A”

EXHIBIT “B”

COPIES OF PROOF OF RECEIPT OF SERVICE OF PROCESS

Case: *Antonio Scoggins, Plaintiff, v. City of Houston, Texas, and Individually, Angel Arriaga, Michael J. Stubbs, Andrew Maldonado, Christina Lafour, Robert Estrada, John Montgomery, Charles Landrumill, Sylvester Turner and Art Acevedo, Defendants.*

Advisory Note:

The defendants named below were served with Plaintiff's First Amended Petition and citation via certified mail on the dates stated, as evidence by the attached documents. The executed process has not been filed by Plaintiff's counsel with the clerk of the state court.

- (1) Defendant City of Houston was served through the City Secretary on or about April 11, 2018.
- (2) Defendant Sylvester Turner was served on or about April 11, 2018.
- (3) Defendant Charles Landrum (improperly named as Charles Landrumill) was served on or about April 11, 2018.
- (4) Defendant Andrew Maldonado was served on or about April 11, 2018.
- (5) Defendant Angel Arriaga was served on or about April 12, 2018.
- (6) Defendant John Montgomery was served on or about April 12, 2018.
- (7) Defendant Art Acevedo was served on or about April 12, 2018.
- (8) Defendant Christina LaFour was served on or about April 13, 2018.
- (9) Defendant Michael J. Stubbs was served on or about April 13, 2018.

EXHIBIT “C”

EXHIBIT “D”

INDEX OF DOCUMENTS FILED WITH REMOVAL ACTION

Case: *Antonio Scoggins, Plaintiff, v. City of Houston, Texas, and Individually, Angel Arriaga, Michael J. Stubbs, Andrew Maldonado, Christina Lafour, Robert Estrada, John Montgomery, Charles Landrumill, Sylvester Turner and Art Acevedo, Defendants.*

- (a) Plaintiffs' First Amended Petition.
- (b) Citation to City of Houston with receipt stamp on the petition.
- (c) Citation to Sylvester Turner with receipt stamp on the same.
- (d) Citation to Andrew Maldonado with redacted letter stating date of service.
- (e) Citation to Angel Arriaga with redacted letter stating date of service.
- (f) Citation to John Montgomery with redacted letter stating date of service.
- (g) Citation to Art Acevedo with redacted letter stating date of service.
- (h) Citation to Christina LaFour with redacted letter stating date of service.
- (i) Citation to Michael J. Stubbs with redacted letter stating date of service.
- (j) Citation to Charles Landrum (incorrectly named Landrumill) with redacted letter stating date of service.
- (k) Docket Sheet from State Court Action under cause #2018-21157
- (l) Index of Documents Filed with Removal Action
- (m) List of all counsel of record.

EXHIBIT “E”

LIST OF COUNSEL OF RECORD

Case: *Antonio Scoggins, Plaintiff, v. City of Houston, Texas, and Individually, Angel Arriaga, Michael J. Stubbs, Andrew Maldonado, Christina Lafour, Robert Estrada, John Montgomery, Charles Landrumill, Sylvester Turner and Art Acevedo, Defendants.*

1. Attorneys for Plaintiff

Andre D. Evans
Andre Evans & Associates, PLLC
3003 South Loop West, Suite 108
Houston, Texas 77054
Tel: (832) 941-1282
Fax: (832) 778-8353
andre@attorneyandreevans.com

2. Attorneys for Defendants City of Houston, Angel Arriaga, Michael J. Stubbs, Andrew Maldonado, Christina LaFour, John Montgomery, Charles Landrum, Sylvester Turner and Art Acevedo

Jennifer F. Callan
Senior Assistant City Attorney
SBN: 00793715
FBN: 22721
City of Houston Legal Dept.
P.O. Box 368
Houston, Texas 77001-0368
Tel: (832) 393-6286 (direct)
Fax: (832) 393-6259
Jennifer.Callan@houstontx.gov

Deidra Norris Sullivan
Senior Assistant City Attorney
SBN: 24080648
FBN: 13338580
City of Houston Legal Dept.
P.O. Box 368
Houston, Texas 77001-0368
Tel: (832) 393-6299 (direct)
Fax: (832) 393-6259
Deidra.Sullivan@houstontx.gov

3. Defendant Robert Estrada – has not been served with process as of the date of this notice.